

REMARKS

In this office action the Examiner rejected claims 4-8, 13-15 and 19 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated,

"In claim 4, lines 7-9 'said first aperture' and 'said second aperture' lack proper antecedent basis.

In claim 6, lines 3-8, 'secured to one of said at least one strap like member and said first one of said pair of strap like members' is confusing. The claim suggests that there are three strap members. In fact claim 4 suggests that the embodiment as claimed has only two members (a pair).

In claim 7, 'hoop and loop' should be -hook and loop-.

In claim 8, it is not clear what is being 'adjustable'.

In claim 13, line 4, 'said front end' is not understood.

In claim 19, line 5, 'said front end' is not understood."

Applicant has amended the claims so as to particularly point out and distinctly claim the subject matter which Applicant regards as the invention; therefore, Applicant respectfully requests that the examiner withdraw the rejection of claims 4-8, 13-15 and 19 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Further in the office action the Examiner rejected claims 1-3, 9-10, 12, 16, 18-20 under 35 U.S.C. 102(b) as being clearly anticipated by Koblick (4,004,355). The Examiner stated, "Note that the bottom junction between the base 16 and rear 18 is 'convex' in a transverse direction. Intended use is given no patentable weight."

Applicant must disagree with the Examiner's interpretation that the present invention is anticipated by Koblick. It is well settled patent law that for a reference to anticipate a claim, the reference must teach each and every element of that claim. Applicant's invention specifically provides:

"a first means disposed along said upper surface of said first member adjacent a first outer edge portion thereof between a front portion of said first member and a back portion of said first member for engaging a first end of said at least one strap like member; and

a second means disposed along said upper surface adjacent a substantially radially opposed second outer edge portion thereof between said front portion of said first member and said back portion of said first member for engaging a second end of said at least one strap like member."

Clearly these are not taught by Koblick. Koblick teaches a continuous strap in which neither the first end of such strap is engageable with the first means (slot or aperture) nor is the

second end of such strap engageable with such second means (slot or aperture). In the teaching of Koblick such first end of such strap only engages the second end of such strap. Neither ends of the strap engage the aperture or slot in the side of the shoe. Thus, the present is not anticipated or even suggested by Koblick.

Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-3, 9-10, 12, 16, 18-20 under 35 U.S.C. 102(b) as being clearly anticipated by Koblick (4,004,355).

Further in the office action the Examiner rejected claims 4-6 and 8 under 35 U.S.C. 103(a) as being unpatentable over Koblick '355. The Examiner stated,

"`355 does not show a pair of separate strap members respectively attached to the apertures or a third strap for engaging the heel. `355 teaches a securing strap for the feet and a strap for the heel formed by a single-piece member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the retaining strap (14) of `355 into two separate pieces respectively attached to the apertures, since it has been held that constructing a formerly integral structure in various elements involves only routing skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

As to the specific arrangement of the strap(s) (claim 6), it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the third heel securing

strap to the feet securing straps, since it is held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70."

Applicant must disagree with the Examiner's conclusion that it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the retaining strap (14) of '355 into two separate pieces respectively attached to the apertures. Koblick teaches, "The present invention relates to a shoe device, including a shoe member and a continuous strap, and a method of attaching the strap to the shoe member so as to facilitate securement of the shoe device to a foot." (Col. 1, lines 6-10). (Underlining is for emphasis). And further:

"The retaining strap passes appropriately through the slots to define a toe retaining loop and ankle-retaining loop.

In another aspect, the present invention is a method of attaching a strap to a shoe member having at least three pairs of corresponding slots. The method includes passage of the strap inwardly and outwardly through the slots with respect to the shoe member, such that the strap defines a pair of retaining loops for securing the shoe member to a foot or conventional shoe.

It is thus an object of the present invention to provide a shoe device, having a single continuous strap which is securable to the foot or a conventional shoe." (Col. 1, lines 31-43).

As can be seen from the above excerpts the use of a single strap is a prime if not the major emphasis of the invention of Koblick. As Koblick states "...the requirement of a second separate strap substantially increases the cost of the device."

Thus, contrary to the Examiner's statement that it would have been obvious to use two straps, Koblick clearly teaches away from the use of two straps.

The present invention provides only one pair of apertures (or slots) and not "at least three pair of slots" as is taught by Koblick. Further, there is no toe loop in the present invention, the present invention provides a pair of straps that covers the instep or ankle portion of the foot and another strap that encircles the heel portion of the foot.

The teaching of Koblick is completely away from the use of two straps. Considering the teaching of Koblick and with the three pairs of slots in the shoe as taught by Koblick it is difficult to imagine how "It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the retaining strap (14) of '355 into two separate pieces respectively attached to the apertures,..." as suggested by the Examiner.

Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 4-6 and 8 under 35 U.S.C. 103(a) as being unpatentable over Koblick '355.

The Examiner rejected claims 7 and 17 under 35 U.S.C. 103 (a) as being unpatentable over Koblick '355 in view of Leighton et al. (5,398,957). The Examiner stated,

"'355 does not show a hook and loop fastener. '957 teaches an adjustable securing means formed of hook and loop fastener and recognizes the fastener and the buckles are mechanical equivalents.

It would have been obvious to one of ordinary skill in the art to substitute one for the other. *In re fout* 675 F.2d 297, 301, 213, USPQ 532, 536 (CCPA 1982)."

Applicant has previously shown that the present invention is clearly different from that taught by Koblick and the fact that Leighton et al. use a hook and loop type of fastener does not change the fact that the Koblick reference does not teach the present invention. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 7 and 17 under 35 U.S.C. 103(a) as being unpatentable over Koblick '355 in view of Leighton et al. (5,398,957).

The Examiner rejected claim 11 under 35 U.S.C. 103 (a) as being unpatentable over Koblick '355 in view of Edwards et al. (6,206,424). The Examiner stated,

'355 does not show a non-slip surface. '424 teaches a slide having non-slip engagement (21) to provide an adhesion to a foot. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the slide of

`355 with a non-slip surface as taught by `424 to provide an adhesion to a foot."

Applicant must point out that Edwards et al. teaches, "The furniture slide of the present invention includes a sheet of material having a convex bottom base for sliding on a floor surface and further includes compressible material that is adhered to the top face of the sheet for support contact with the furniture to be moved. This compressible material is precut whereby a plug of the compressible material may be readily removed therefrom to provide a cavity in the comprtessible material. Then a slightly thicker Styrofoam drying block, which is dimensioned for insertion into this cavity, is inserted into this cavity. The drying block has an upper surface with a sticky adhesive so that the drying block sticks and remains adhered to the supported furniture when the remainder of the furniture slide is removed." (Abstract).

Thus, Examiner states that "`424 teaches a slide having a non-slip engagement (21) to provide an adhesion to a foot." However, as taught by Edwards et al., such non-slip engagement 21 is in the form of a sticky adhesive. It is hardly likely that someone having ordinary skill in the art at the time the invention was made would modify the shoe of Koblick with the non-slip engagement surface as taught by `424, since this non-slip surface is in the form of an adhesive.

Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claim 11 under 35 U.S.C. 103 (a) as being unpatentable over Koblick `355 in view of Edwards et al. (6,206,424).

The Examiner rejected claims 13-15 and 19 under 35 U.S.C. 103 (a) as being unpatentable over Koblick `355 in view of Lancon (6,401,367. The Examiner stated,

"`355 does not show forming sawteeth on a forward portion. `367 teaches forming sawtooth ribs (3, 3a, 3b) to ensure a good progressiveness between the gliding function of the front and the retaining function of the rear. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the front forward portion of `355 with sawtooth ribs as taught by `367 to insure a good progressiveness."

Koblick teaches, "The snow shoe 12 also includes a series of ribs 25, extending substantially longitudinally along the bottom of the foot supporting base 16 and front wall 22. In the snow, the ribs 25 substantially decrease frictional resistance to sliding and operate as guides to assist the user in maintaining a straight course."

Applicant does not believe that one with ordinary skill in the art would modify the front portion of the shoe of Koblick with sawtooth ribs since the sawtooth ribs would be contrary to the longitudinal ribs which are taught be Koblick. However, this is


moot since the present invention as indicated previously is clearly not taught by Koblick.

Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of 13-15 and 19 under 35 U.S.C. 103 (a) as being unpatentable over Koblick '355 in view of Lancon (6,401,367.

In view of the amendment to the claims and the discussion supra, it is believed that the invention as described in claims 1-20 is patentable and that this application is now in condition for allowance and such allowance by the Examiner is respectfully requested.

In the event the Examiner has further difficulties with the examination and/or allowance of the application, the Examiner is invited to contact the undersigned agent for applicant by telephone at (412) 380-0725, if necessary, to resolve any remaining questions or issues by interview and/or Examiner's Amendment as to any matter.

Respectfully submitted,
James Ray and Associates

By 
Amos Bartoli
Registration No. 42,299
Agent for Applicant

JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146
TELEPHONE: (412) 380-0725
FACSIMILE: (412) 380-0748